

AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1151

Introduced by Assembly Member Dymally

February 21, 2003

An act to amend ~~Sections 820.21 and~~ *Section* 911.4 of the Government Code, to amend Section 1527.6 of the Health and Safety Code, and to amend ~~Sections 311, 317, 361.3, 16001.9, 16500, 16501.1, and 16507.5 of the~~ *Section 827 of, and to add Section 16000.1 to, the* Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1151, as amended, Dymally. Foster care.

~~Existing law provides generally that a public employee is not liable for an injury resulting from his or her act or omission where it was the result of the exercise of his or her discretion, whether or not that discretion was abused, but that he or she is liable for injury caused by his or her actual fraud, corruption, or actual malice. Existing law provides that the civil immunity of juvenile court social workers, child protection workers, and other public employees authorized to initiate or conduct investigations or proceedings pursuant to juvenile court law shall not extend to specified acts if any of those acts are committed with malice, as defined.~~

~~This bill would revise those acts and would add to those acts the failure to disclose to the court competent evidence of molestation or serious physical endangerment.~~

Existing law requires a claim for personal injury against a public entity, which includes the state, the Regents of the University of

California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, or against an employee of a public entity, to be presented not later than 6 months after accrual of the cause of action. Existing law provides that when a claim is not filed within the 6-month period, an application for leave to present the claim within a reasonable time not to exceed one year after the accrual of the cause of action may be filed in accordance with specified provisions. Existing law provides that the time during which a person is detained or adjudged a dependent child of the juvenile court pursuant to certain provisions of law shall, under certain circumstances, not be counted in that one-year period.

This bill would provide that the time during which a minor is adjudged to be a dependent child of the juvenile court, pursuant to certain provisions of law, shall not be counted in that one-year period if the minor is without a guardian ad litem or conservator for purposes of filing civil actions.

Existing law establishes the Foster Family Home and Small Family Home Insurance Fund within the State Department of Social Services to pay on behalf of foster family homes and small family homes, claims of foster children, their parents, guardians, and guardians ad litem resulting from occurrences peculiar to the foster-care relationship and the provision of foster-care services. Existing law requires that any claim against the fund filed by a foster parent or a 3rd party be submitted to the fund within the applicable period of limitation for the appropriate civil action underlying the claim. Existing law provides that if a person entitled to bring an action under specified laws is, at the time the cause of action accrued, either a minor or insane, the time of this disability is not part of the time limited for the commencement of the action.

This bill would provide that a claim against the fund filed by a foster parent or 3rd party is subject to the latter provision described above that extends the limitation of time for the commencement of an action for a minor.

~~Under existing law, when a minor who has been taken into custody is delivered to a probation officer, the officer is required to conduct a specified investigation and release the minor to the custody of the minor's parent, guardian, or responsible relative unless certain circumstances exist. If the probation officer determines that a minor shall be retained in custody, existing law requires the officer to immediately file a petition to commence proceedings to declare the~~



~~minor a ward or a dependent child of the court with the clerk of the juvenile court.~~

~~This bill would, instead, require the prosecutor or county counsel to file the petition when the probation officer determines that the minor shall be retained in custody.~~

~~Existing law requires, in any case in which a child is not represented by counsel and the child would benefit from the appointment of counsel, the court to appoint counsel for the minor to primarily be an advocate for the protection, safety, and physical and emotional well-being of the minor. Under existing law, counsel appointed pursuant to this provision is not expected to provide nonlegal services to the child. Existing law requires the court to take whatever appropriate action is necessary to fully protect the interests of the child.~~

~~This bill would include within the acts the court is required to take pursuant to this latter provision, the appointment of counsel and social workers to represent and service the child in nondependency proceedings, including with respect to health, safety, special needs, nutrition, and educational needs. By imposing new duties on counties with respect to child welfare services, this bill would impose a state-mandated local program.~~

Under existing law, juvenile court records are generally confidential, with certain limited exceptions. Existing law requires the release to the public of juvenile case files that pertain to a deceased dependent child of the juvenile court, pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Existing law authorizes the presiding judge of the juvenile court to issue an order prohibiting or limiting access to the juvenile case file under certain circumstances.

This bill would provide that after the death of a minor foster child any member of the public may inquire and shall receive designated information regarding that child without having to obtain a court order. The bill would provide that this information is a public record and is not confidential.

Existing law requires that if a child is removed from the physical custody of his or her parents, preferential consideration be given to a request by a relative of the child for placement of the child with the relative.

~~This bill would provide that the first, paramount, and superseding mandatory duty of the county social worker and the court shall be to safeguard the child from further abuse and neglect while in foster care~~

~~placement, and within compliance with that requirement preferential consideration shall be given to a relative under this provision.~~

Existing law sets forth the policy of the state that all children placed in foster care have certain rights, and requires social workers and facilities providing social services to children in foster care to provide those children with information regarding those rights.

~~This bill would create a cause of action for equitable relief to enforce those rights for the guardian ad litem or attorney of a child whose rights have been violated. The bill would authorize the court, on its own motion, to issue an order of compliance upon any person abridging or threatening those rights.~~

~~Existing law requires the state, through the department and county welfare departments, to establish and support a public system of statewide child welfare services, and declares the intent of the Legislature that all children are entitled to be safe and free from abuse and neglect.~~

~~This bill would declare legislative intent that, in providing this child welfare services system, the state owes a mandatory duty of the highest order to protect and care for abused and neglected children over whom the state has taken jurisdiction through juvenile dependency court orders.~~

~~Existing law provides that when out-of-home placement is used, the decision regarding the choice of placement shall be based upon the selection of a safe setting that is the least restrictive or most familylike and the most appropriate setting that is available and in close proximity to the parent's home, consistent with the selection of the environment best suited to meet the child's special needs and best interest. Existing law specifies various placement options in order of the priority in which they are to be considered.~~

~~This bill would provide that the decision regarding a choice of placement shall first ensure the safety and protection of the child from abuse and thereafter be based upon the above criteria and considerations.~~

~~Existing law provides that when a child is separated or is in the process of being separated from the minor's family under the provisions of a voluntary placement agreement, the county welfare department or a licensed private or public adoption agency social worker shall make any reasonable and necessary provisions for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment.~~



~~This bill would additionally require the county welfare department or the social worker to ensure as a foremost mandatory duty that the child is protected from further abuse and neglect while under the jurisdiction of the court and the regulatory jurisdiction of the foster care system.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions to abrogate the holding in *County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R.* (2002) 102 Cal.App.4th 627, to the extent that decision affected liability or immunity for injuries to children in protective custody, and to reinstate the judicial interpretation of liability and immunity as it existed prior to that decision, and to confirm the state's duty to comply with all requirements under certain federal law that are relevant to the protection and welfare of children in foster care.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes *no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Duty to Foster Children Reaffirmation Act.
- 3 SEC. 2. ~~(a) The Legislature finds and declares that this act is~~
- 4 ~~intended to clarify the law following the decision in *County of Los*~~
- 5 ~~*Angeles v. Superior Court of Los Angeles; Real Party in Interest*~~
- 6 ~~*Terrell R.* (2002) 102 Cal.App.4th 627.~~
- 7 ~~(b) The Legislature finds and declares all of the following:~~
- 8 ~~(1) The state has a special duty to care for and protect the~~
- 9 ~~children the state places into foster care.~~
- 10 ~~(2) The judicial order taking jurisdiction over children placed~~
- 11 ~~into foster care supplants or limits parental or previous adult~~
- 12 ~~authority.~~

~~(3) Accordingly, the state assumes an obligation of the highest order to ensure the safety of children in foster care.~~

~~(e) It is the intent of the Legislature to enact legislation to provide that certain standards and requirements specified in statute that address the care and safety of foster children, and the rules and manuals adopted to implement those statutes, each constitute mandatory and enforceable duties.~~

~~SEC. 3. Section 820.21 of the Government Code is amended to read:~~

~~820.21. (a) Notwithstanding any other law, the civil immunity of juvenile court social workers, child protection workers, and other public employees authorized to initiate or conduct investigations or proceedings pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code shall not extend to any of the following, if committed with malice:~~

~~(1) Perjury.~~

~~(2) Fabrication of evidence.~~

~~(3) Failure to disclose to the court competent known exculpatory evidence.~~

~~(4) Failure to disclose to the court competent evidence of molestation or serious physical endangerment.~~

~~(5) Obtaining testimony by duress, as defined in Section 1569 of the Civil Code, fraud, as defined in either Section 1572 or Section 1573 of the Civil Code, or undue influence, as defined in Section 1575 of the Civil Code.~~

~~(b) As used in this section, "malice" means conduct that is intended by the person described in subdivision (a) to cause injury to the plaintiff or despicable conduct that is carried on by the person described in subdivision (a) with a willful and conscious disregard of the rights or safety of others.~~

~~SEC. 4.—~~

~~SEC. 2. Section 911.4 of the Government Code is amended to read:~~

~~911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within that time, a written application may be made to the public entity for leave to present that claim.~~

~~(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) within a~~

1 reasonable time not to exceed one year after the accrual of the
2 cause of action and shall state the reason for the delay in presenting
3 the claim. The proposed claim shall be attached to the application.

4 (c) In computing the one-year period under subdivision (b), the
5 following shall apply:

6 (1) The time during which the person who sustained the alleged
7 injury, damage, or loss as a minor shall be counted, but the time
8 during which he or she is mentally incapacitated and does not have
9 a guardian or conservator of his or her person shall not be counted.

10 (2) The time shall not be counted during which the person is
11 detained or adjudged to be a dependent child of the juvenile court
12 under the Arnold-Kennick Juvenile Court Law (Chapter 2
13 (commencing with Section 200) of Part 1 of Division 2 of the
14 Welfare and Institutions Code), if both of the following conditions
15 exist:

16 (A) The person is in the custody and control of an agency of the
17 public entity to which a claim is to be presented.

18 (B) The public entity or its agency having custody and control
19 of the minor is required by statute or other law to make a report of
20 injury, abuse, or neglect to either the juvenile court or the minor's
21 attorney, and that entity or its agency fails to make this report
22 within the time required by the statute or other enactment, with this
23 time period to commence on the date on which the public entity or
24 its agency becomes aware of the injury, neglect, or abuse. In
25 circumstances where the public entity or its agency makes a late
26 report, the claim period shall be tolled for the period of the delay
27 caused by the failure to make a timely report.

28 (3) The time shall not be counted during which a minor is
29 adjudged to be a dependent child of the juvenile court under the
30 Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing
31 with Section 200) of Part 1 of Division 2 of the Welfare and
32 Institutions Code), if the minor is without a guardian ad litem or
33 conservator for purposes of filing civil actions.

34 ~~SEC. 5.—~~

35 *SEC. 3.* Section 1527.6 of the Health and Safety Code is
36 amended to read:

37 1527.6. (a) Any claim against the fund shall be filed with the
38 fund in accordance with claims procedures and on forms
39 prescribed by the State Department of Social Services or its
40 designated contract agency.

(b) Any claim against the fund filed by a foster parent or a third party shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim, subject to Section 352 of the Code of Civil Procedure as that section applies to a minor. If a claim is not submitted to the fund within the applicable time, there shall be no recourse against the fund.

(c) The department shall approve or reject a claim within 180 days after it is presented.

(d) No person may bring a civil action against a foster parent for which the fund is liable unless that person has first filed a claim against the fund and the claim has been rejected, or the claim has been filed, approved, and paid, and damages in excess of the payment are claimed.

~~SEC. 6. Section 311 of the Welfare and Institutions Code is amended to read:~~

~~311. (a) If the probation officer determines that the minor shall be retained in custody, the prosecutor or county counsel shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile court who shall set the matter for hearing on the detention hearing calendar.~~

~~(b) In the hearing, the child, parents, or guardians have a privilege against self-incrimination and have a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 319.~~

~~SEC. 7. Section 317 of the Welfare and Institutions Code is amended to read:~~

~~317. (a) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.~~

~~(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.~~

~~(c) Where a child is not represented by counsel, the court shall appoint counsel for the child unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding. A primary responsibility of any counsel appointed to represent a child pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child. Counsel for the child may be a district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the child's. The fact that the district attorney represents the child in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation for the services of appointed counsel. The appointed counsel shall have a caseload and training that assures adequate representation of the child. The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.~~

~~(d) The counsel appointed by the court shall represent the parent, guardian, or child at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent or child unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent or the child in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship.~~

~~(e) The counsel for the child shall be charged in general with the representation of the child's interests. To that end, the counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. He or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to~~

adequately represent the child. In any case in which the child is four years of age or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being, and shall advise the court of the child's wishes. Counsel for the child shall not advocate for the return of the child if, to the best of his or her knowledge, that return conflicts with the protection and safety of the child. In addition counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. The attorney representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker and is not expected to provide nonlegal services to the child.

(f) In addition to counsel appointed by the court as specified in subdivisions (c), (d), and (e), the court shall take whatever additional appropriate action is necessary to fully protect the interests of the child, including the appointment of qualified counsel and social workers to represent and service the child in nondependency proceedings, including proceedings pertaining to health, safety, special needs, nutrition, and educational needs. These nondependency proceedings shall be governed by Chapter 3 (commencing with Section 372) of Title 3 of Part 2 of the Code of Civil Procedure.

(g) Either the child or the counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to so consent, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege. If the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be holder of these privileges if the child is found by the court not to be of sufficient age and maturity to so consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel for a child shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, a health care provider, as defined in paragraph (2) of subdivision (c) of Section 6146 of the Business and Professions Code, a physician and surgeon or other health practitioner as described in paragraphs (21) to (28), inclusive, of subdivision (a)

of Section 11165.7 of the Penal Code, or a child care custodian, as described in paragraphs (1) to (18), inclusive, of subdivision (a) of Section 11165.7 of the Penal Code. Notwithstanding any other law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within 30 days of the request.

(h) In a county of the third class, if counsel is to be provided to a child at county expense other than by counsel for the agency, the court shall first utilize the services of the public defender prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

(i) In a county of the third class, if counsel is to be appointed for a parent or guardian at county expense, the court shall first utilize the services of the alternate public defender, prior to appointing private counsel, to provide legal counsel. Nothing in this subdivision shall be construed to require the appointment of the alternate public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.

SEC. 8.—Section 361.3 of the Welfare and Institutions Code is amended to read:

361.3.—(a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, the first, paramount, and superseding mandatory duty of the county social worker and the court shall be to safeguard the child from further abuse and neglect while in foster care placement. Within compliance with that primary duty, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative. In determining whether placement

~~with a relative is appropriate, the county social worker and court shall consider, but shall not be limited to, consideration of all the following factors:~~

~~(1) The best interest of the child, including special physical, psychological, educational, medical, or emotional needs.~~

~~(2) The wishes of the parent, the relative, and child, if appropriate.~~

~~(3) The provisions of Part 6 (commencing with Section 7950) of Division 12 of the Family Code regarding relative placement.~~

~~(4) Placement of siblings and half-siblings in the same home, if that placement is found to be in the best interest of each of the children as provided in Section 16002.~~

~~(5) The good moral character of the relative and any other adult living in the home, including whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect.~~

~~(6) The nature and duration of the relationship between the child and the relative, and the relative's desire to care for the child.~~

~~(7) The ability of the relative to do the following:~~

~~(A) Provide a safe, secure, and stable environment for the child.~~

~~(B) Exercise proper and effective care and control of the child.~~

~~(C) Provide a home and the necessities of life for the child.~~

~~(D) Protect the child from his or her parents.~~

~~(E) Facilitate court-ordered reunification efforts with the parents.~~

~~(F) Facilitate visitation with the child's other relatives.~~

~~(G) Facilitate implementation of all elements of the case plan.~~

~~(H) Provide legal permanence for the child if reunification fails.~~

~~However, any finding made with respect to the factor considered pursuant to this subparagraph and pursuant to subparagraph (G) shall not be the sole basis for precluding preferential placement with a relative.~~

~~(I) Arrange for appropriate and safe child care, as necessary.~~

~~(8) The safety of the relative's home. For a relative to be considered appropriate to receive placement of a child under this section, the relative's home shall first be approved pursuant to the process and standards described in subdivision (d) of Section 309.~~

1 In this regard, the Legislature declares that a physical disability,
2 such as blindness or deafness, is no bar to the raising of children;
3 and a county social worker's determination as to the ability of a
4 disabled relative to exercise care and control should center upon
5 whether the relative's disability prevents him or her from
6 exercising care and control. The court shall order the parent to
7 disclose to the county social worker the names, residences, and any
8 other known identifying information of any maternal or paternal
9 relatives of the child. This inquiry shall not be construed, however,
10 to guarantee that the child will be placed with any person so
11 identified. The county social worker shall initially contact the
12 relatives given preferential consideration for placement to
13 determine if they desire the child to be placed with them. Those
14 desiring placement shall be assessed according to the factors
15 enumerated in this subdivision. The county social worker shall
16 document these efforts in the social study prepared pursuant to
17 Section 358.1. The court shall authorize the county social worker,
18 while assessing these relatives for the possibility of placement, to
19 disclose to the relative, as appropriate, the fact that the child is in
20 custody, the alleged reasons for the custody, and the projected
21 likely date for the child's return home or placement for adoption
22 or legal guardianship. However, this investigation shall not be
23 construed as good cause for continuance of the dispositional
24 hearing conducted pursuant to Section 358.

25 (b) In any case in which more than one appropriate relative
26 requests preferential consideration pursuant to this section, each
27 relative shall be considered under the factors enumerated in
28 subdivision (a).

29 (c) For purposes of this section, the following definitions
30 apply:

31 (1) "Preferential consideration" means that the relative
32 seeking placement shall be the first placement to be considered and
33 investigated.

34 (2) "Relative" means an adult who is related to the child by
35 blood, adoption, or affinity within the fifth degree of kinship,
36 including stepparents, stepsiblings, and all relatives whose status
37 is preceded by the words "great," "great-great," or "grand" or
38 the spouse of any of these persons even if the marriage was
39 terminated by death or dissolution. However, only the following
40 relatives shall be given preferential consideration for the

1 placement of the child: an adult who is a grandparent, aunt, uncle,
2 or sibling.

3 (d) Subsequent to the hearing conducted pursuant to Section
4 358, whenever a new placement of the child must be made,
5 consideration for placement shall again be given as described in
6 this section to relatives who have not been found to be unsuitable
7 and who will fulfill the child's reunification or permanent plan
8 requirements. In addition to the factors described in subdivision
9 (a), the county social worker shall consider whether the relative
10 has established and maintained a relationship with the child.

11 (e) If the court does not place the child with a relative who has
12 been considered for placement pursuant to this section, the court
13 shall state for the record the reasons placement with that relative
14 was denied.

15 SEC. 9. Section 16001.9 of the Welfare and Institutions Code
16 is amended to read:

17 16001.9. (a) It is the policy of the state that all children in
18 foster care shall have the following rights:

19 (1) To live in a safe, healthy, and comfortable home where he
20 or she is treated with respect.

21 (2) To be free and protected from physical, sexual, emotional,
22 or other abuse, or corporal punishment.

23 (3) To receive adequate and healthy food, adequate clothing,
24 and, for youth in group homes, an allowance.

25 (4) To receive medical, dental, vision, and mental health
26 services.

27 (5) To be free of the administration of medication or chemical
28 substances, unless authorized by a physician.

29 (6) To contact family members, unless prohibited by court
30 order, and social workers, attorneys, foster youth advocates and
31 supporters, Court Appointed Special Advocates (CASA), and
32 probation officers.

33 (7) To visit and contact brothers and sisters, unless prohibited
34 by court order.

35 (8) To contact the Community Care Licensing Division of the
36 State Department of Social Services or the State Foster Care
37 Ombudsperson regarding violations of rights, to speak to
38 representatives of these offices confidentially, and to be free from
39 threats or punishment for making complaints.

1 ~~(9) To make and receive confidential telephone calls and send~~
2 ~~and receive unopened mail, unless prohibited by court order.~~

3 ~~(10) To attend religious services and activities of his or her~~
4 ~~choice.~~

5 ~~(11) To maintain an emancipation bank account and manage~~
6 ~~personal income, consistent with the child's age and~~
7 ~~developmental level, unless prohibited by the case plan.~~

8 ~~(12) To not be locked in any room, building, or facility~~
9 ~~premises, unless placed in a community treatment facility.~~

10 ~~(13) To attend school and participate in extracurricular,~~
11 ~~cultural, and personal enrichment activities, consistent with the~~
12 ~~child's age and developmental level.~~

13 ~~(14) To work and develop job skills at an age-appropriate level~~
14 ~~that is consistent with state law.~~

15 ~~(15) To have social contacts with people outside of the foster~~
16 ~~care system, such as teachers, church members, mentors, and~~
17 ~~friends.~~

18 ~~(16) To attend Independent Living Program classes and~~
19 ~~activities if he or she meets age requirements.~~

20 ~~(17) To attend court hearings and speak to the judge.~~

21 ~~(18) To have storage space for private use.~~

22 ~~(19) To review his or her own case plan if he or she is over 12~~
23 ~~years of age and to receive information about his or her~~
24 ~~out-of-home placement and case plan, including being told of~~
25 ~~changes to the plan.~~

26 ~~(20) To be free from unreasonable searches of personal~~
27 ~~belongings.~~

28 ~~(21) To confidentiality of all juvenile court records consistent~~
29 ~~with existing law.~~

30 ~~(b) Nothing in this section shall be interpreted to require a~~
31 ~~foster care provider to take any action that would impair the health~~
32 ~~and safety of children in out-of-home placement.~~

33 ~~(c) The guardian ad litem or attorney for a child whose rights~~
34 ~~under subdivision (a) are violated shall have a right of action for~~
35 ~~equitable relief to enforce those rights before the juvenile court~~
36 ~~that has jurisdiction over the child. In addition to any equitable~~
37 ~~relief, the juvenile court may issue, on its own motion, an order of~~
38 ~~compliance upon any person abridging or threatening violation of~~
39 ~~those rights. Reasonable attorney's fees shall be awarded to~~

1 counsel bringing an action under this subdivision where the action
2 produces an order or other benefit for the child.

3 ~~SEC. 10. Section 16500 of the Welfare and Institutions Code~~
4 ~~is amended to read:~~

5 ~~16500. (a) The state, through the department and county~~
6 ~~welfare departments, shall establish and support a public system~~
7 ~~of statewide child welfare services to be developed as rapidly as~~
8 ~~possible and to be available in each county of the state. All counties~~
9 ~~shall establish and maintain specialized organizational entities~~
10 ~~within the county welfare department which shall have sole~~
11 ~~responsibility for the operation of the child welfare services~~
12 ~~program.~~

13 ~~(b) The Legislature hereby declares its intent, in providing for~~
14 ~~this statewide system of child welfare services, that all children are~~
15 ~~entitled to be safe and free from abuse and neglect and that the state~~
16 ~~owes a mandatory duty of the highest order to protect and care for~~
17 ~~abused and neglected children over whom the state has taken~~
18 ~~jurisdiction through juvenile dependency court orders.~~

19 ~~SEC. 11. Section 16501.1 of the Welfare and Institutions~~
20 ~~Code is amended to read:~~

21 ~~16501.1. (a) The Legislature finds and declares that the~~
22 ~~foundation and central unifying tool in child welfare services is the~~
23 ~~case plan.~~

24 ~~(b) The Legislature further finds and declares that a case plan~~
25 ~~ensures that the child receives protection and safe and proper care~~
26 ~~and case management, and that services are provided to the child~~
27 ~~and parents or other caretakers as appropriate in order to improve~~
28 ~~conditions in the parent's home, to facilitate the safe return of the~~
29 ~~child to a safe home or the permanent placement of the child, and~~
30 ~~to address the needs and ensure the protection of the child while~~
31 ~~in foster care, including out-of-home placement. A case plan shall~~
32 ~~be based upon the principles of this section and shall document that~~
33 ~~a preplacement assessment of the service needs of the child and~~
34 ~~family, and preplacement preventive services, have been~~
35 ~~provided, and that reasonable efforts to prevent out-of-home~~
36 ~~placement have been made. In determining the reasonable services~~
37 ~~to be offered or provided, the child's health and safety shall be the~~
38 ~~paramount concerns. Reasonable services shall be offered or~~
39 ~~provided to make it possible for a child to return to a safe home~~
40 ~~environment, unless, pursuant to subdivisions (b) and (c) of~~

~~Section 361.5, the court determines that reunification services shall not be provided. If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.~~

~~(c) When out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall first ensure the safety and protection of the child from abuse. The choice of placement shall thereafter be based upon selection of a safe setting that is the least restrictive or most familylike and the most appropriate setting that is available and in close proximity to the parent's home, consistent with the selection of the environment best suited to meet the child's special needs and best interest, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.~~

~~(d) A written case plan shall be completed within 30 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.~~

~~(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.~~

~~(f) The case plan shall be developed as follows:~~

~~(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention.~~

~~(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.~~

~~(3) The case plan shall identify the original allegations of child abuse or neglect, as defined in Section 11165.6 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.~~

~~(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social service agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative at least every 12 months and submit a report to the court on each visit. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.~~

~~(5) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.~~

~~(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to~~

1 ~~the child commensurate with the child's age and emotional~~
2 ~~well being. These significant life events shall include, but shall not~~
3 ~~be limited to, the following:~~

4 ~~(A) The death of an immediate relative.~~

5 ~~(B) The birth of a sibling.~~

6 ~~(C) Significant changes regarding a dependent child, unless the~~
7 ~~child objects to the sharing of the information with his or her~~
8 ~~siblings, including changes in placement, major medical or mental~~
9 ~~health diagnoses, treatments, or hospitalizations, arrests, and~~
10 ~~changes in the permanent plan.~~

11 ~~(7) When out-of-home placement is made in a foster family~~
12 ~~home, group home, or other child care institution that is either a~~
13 ~~substantial distance from the home of the child's parent or out of~~
14 ~~state, the case plan shall specify the reasons why that placement is~~
15 ~~in the best interest of the child. When an out-of-state group home~~
16 ~~placement is recommended or made, the case plan shall, in~~
17 ~~addition, specify compliance with Section 7911.1 of the Family~~
18 ~~Code.~~

19 ~~(8) When out-of-home services are used, or when parental~~
20 ~~rights have been terminated and the case plan is placement for~~
21 ~~adoption, the case plan shall include a recommendation regarding~~
22 ~~the appropriateness of unsupervised visitation between the child~~
23 ~~and any of the child's siblings. This recommendation shall include~~
24 ~~a statement regarding the child's and the siblings' willingness to~~
25 ~~participate in unsupervised visitation. If the case plan includes a~~
26 ~~recommendation for unsupervised sibling visitation, the plan shall~~
27 ~~also note that information necessary to accomplish this visitation~~
28 ~~has been provided to the child or to the child's siblings.~~

29 ~~(9) When out-of-home services are used and the goal is~~
30 ~~reunification, the case plan shall describe the services to be~~
31 ~~provided to assist in reunification and the services to be provided~~
32 ~~concurrently to achieve legal permanency if efforts to reunify fail.~~
33 ~~The plan shall also consider the importance of developing and~~
34 ~~maintaining sibling relationships pursuant to Section 16002.~~

35 ~~(10) When out-of-home services are used, the child has been in~~
36 ~~care for at least 12 months, and the goal is not adoptive placement,~~
37 ~~the case plan shall include documentation of the compelling reason~~
38 ~~or reasons why termination of parental rights is not in the child's~~
39 ~~best interest. A determination completed or updated within the~~
40 ~~past 12 months by the department when it is acting as an adoption~~

1 agency or by a licensed adoption agency that it is unlikely that the
2 child will be adopted, or that one of the conditions described in
3 paragraph (1) of subdivision (c) of Section 366.26 applies, shall be
4 deemed a compelling reason.

5 (11) (A) Parents and legal guardians shall have an opportunity
6 to review the case plan, sign it whenever possible, and then shall
7 receive a copy of the plan. In any voluntary service or placement
8 agreement, the parents or legal guardians shall be required to
9 review and sign the case plan. Whenever possible, parents and
10 legal guardians shall participate in the development of the case
11 plan.

12 (B) Parents and legal guardians shall be advised that, pursuant
13 to Section 1228.1 of the Evidence Code, neither their signature on
14 the child welfare services case plan nor their acceptance of any
15 services prescribed in the child welfare services case plan shall
16 constitute an admission of guilt or be used as evidence against the
17 parent or legal guardian in a court of law. However, they shall also
18 be advised that the parent's or guardian's failure to cooperate,
19 except for good cause, in the provision of services specified in the
20 child welfare services case plan may be used in any hearing held
21 pursuant to Section 366.21 or 366.22 as evidence.

22 (12) The case plan shall be included in the court report and shall
23 be considered by the court at the initial hearing and each review
24 hearing. Modifications to the case plan made during the period
25 between review hearings need not be approved by the court if the
26 casework supervisor for that case determines that the
27 modifications further the goals of the plan. When out-of-home
28 services are used with the goal of family reunification, the case
29 plan shall consider and describe the application of subdivision (b)
30 of Section 11203.

31 (13) When the case plan has as its goal for the child a permanent
32 plan of adoption or placement in another permanent home, it shall
33 include documentation of the steps the agency is taking to find an
34 adoptive family or other permanent living arrangements for the
35 child; to place the child with an adoptive family, an appropriate
36 and willing relative, a legal guardian, or in another planned
37 permanent living arrangement; and to finalize the adoption or legal
38 guardianship. At a minimum, the documentation shall include
39 child-specific recruitment efforts, such as the use of state, regional,

1 ~~and national adoption exchanges, including electronic exchange~~
2 ~~systems, when the child has been freed for adoption.~~

3 ~~(g) If the court finds, after considering the case plan, that~~
4 ~~unsupervised sibling visitation is appropriate and has been~~
5 ~~consented to, the court shall order that the child or the child's~~
6 ~~siblings, and the child's prospective adoptive parents, if~~
7 ~~applicable, be provided with information necessary to accomplish~~
8 ~~this visitation. Nothing in this section shall be construed to require~~
9 ~~or prohibit the social worker's facilitation, transportation, or~~
10 ~~supervision of visits between the child and his or her siblings.~~

11 ~~(h) The case plan documentation on sibling placements~~
12 ~~required under this section shall not require modification of~~
13 ~~existing case plan forms until the Child Welfare Services Case~~
14 ~~Management System is implemented on a statewide basis.~~

15 ~~(i) The department, in consultation with the County Welfare~~
16 ~~Directors Association and other advocates, shall develop~~
17 ~~standards and guidelines for a model relative placement search and~~
18 ~~assessment process based on the criteria established in Section~~
19 ~~361.3. These guidelines shall be incorporated in the training~~
20 ~~described in Section 16206.~~

21 ~~SEC. 12. Section 16507.5 of the Welfare and Institutions~~
22 ~~Code is amended to read:~~

23 ~~16507.5. (a) When a minor is separated or is in the process of~~
24 ~~being separated from the minor's family under the provisions of~~
25 ~~a voluntary placement agreement, the county welfare department~~
26 ~~or a licensed private or public adoption agency social worker shall~~
27 ~~make any reasonable and necessary provisions for the care,~~
28 ~~supervision, custody, conduct, maintenance, and support of the~~
29 ~~minor, including medical treatment, and shall ensure as a foremost~~
30 ~~mandatory duty that the minor is protected from further abuse and~~
31 ~~neglect while under the jurisdiction of the court and the regulatory~~
32 ~~jurisdiction of the foster care system.~~

33 ~~(b) The responsibility for the placement and care of a minor~~
34 ~~described in subdivision (a) shall be with the social worker who~~
35 ~~may place the minor in any of the following:~~

36 ~~(1) The approved home of a relative or the approved home of~~
37 ~~a nonrelative extended family member as described in Section~~
38 ~~362.7.~~

39 ~~(2) A suitable licensed community care facility.~~

1 ~~(3) With a foster family agency to be placed in a suitable~~
2 ~~licensed home or other family home which has been certified by~~
3 ~~the agency as meeting licensing standards.~~

4 ~~(4) A home or facility in accordance with the federal Indian~~
5 ~~Child Welfare Act.~~

6 ~~(e) The granting of a community care license or approval status~~
7 ~~does not entitle the caregiver to the placement of a specific child.~~
8 ~~Placement is based on the child's needs and best interests.~~

9 ~~SEC. 13. Notwithstanding Section 17610 of the Government~~
10 ~~Code, if the Commission on State Mandates determines that this~~
11 ~~act contains costs mandated by the state, reimbursement to local~~
12 ~~agencies and school districts for those costs shall be made pursuant~~
13 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
14 ~~2 of the Government Code. If the statewide cost of the claim for~~
15 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
16 ~~reimbursement shall be made from the State Mandates Claims~~
17 ~~Fund.~~

18 *SEC. 4. Section 827 of the Welfare and Institutions Code is*
19 *amended to read:*

20 827. (a) (1) Except as provided in Section 828, a case file
21 may be inspected only by the following:

22 (A) Court personnel.

23 (B) The district attorney, a city attorney, or a city prosecutor
24 authorized to prosecute criminal or juvenile cases under state law.

25 (C) The minor who is the subject of the proceeding.

26 (D) His or her parents or guardian.

27 (E) The attorneys for the parties, and judges, referees, and
28 other hearing officers, probation officers, and law enforcement
29 officers who are actively participating in criminal or juvenile
30 proceedings involving the minor.

31 (F) The superintendent or designee of the school district where
32 the minor is enrolled or attending school.

33 (G) Members of the ~~child protective~~ agencies ~~as defined in~~
34 *authorized to receive mandated reports of suspected child abuse*
35 *or neglect under Section 11165.9 of the Penal Code.*

36 (H) The State Department of Social Services to carry out its
37 duties pursuant to Division 9 (commencing with Section 10000),
38 and Part 5 (commencing with Section 7900) of Division 12 of the
39 Family Code, to oversee and monitor county child welfare

1 agencies, children in foster care or receiving foster care assistance,
2 and out-of-state placements.

3 (I) To authorized legal staff or special investigators who are
4 peace officers who are employed by, or who are authorized
5 representatives of, the State Department of Social Services, as
6 necessary to the performance of their duties to inspect, license, and
7 investigate community care facilities, and to ensure that the
8 standards of care and services provided in those facilities are
9 adequate and appropriate and to ascertain compliance with the
10 rules and regulations to which the facilities are subject. The
11 confidential information shall remain confidential except for
12 purposes of inspection, licensing, or investigation pursuant to
13 Chapter 3 (commencing with Section 1500) and Chapter 3.4
14 (commencing with Section 1596.70) of Division 2 of the Health
15 and Safety Code, or a criminal, civil, or administrative proceeding
16 in relation thereto. The confidential information may be used by
17 the State Department of Social Services in a criminal, civil, or
18 administrative proceeding. The confidential information shall be
19 available only to the judge or hearing officer and to the parties to
20 the case. Names that are confidential shall be listed in attachments
21 separate to the general pleadings. The confidential information
22 shall be sealed after the conclusion of the criminal, civil, or
23 administrative hearings, and shall not subsequently be released
24 except in accordance with this subdivision. If the confidential
25 information does not result in a criminal, civil, or administrative
26 proceeding, it shall be sealed after the State Department of Social
27 Services decides that no further action will be taken in the matter
28 of suspected licensing violations. Except as otherwise provided in
29 this subdivision, confidential information in the possession of the
30 State Department of Social Services shall not contain the name of
31 the minor.

32 (J) Members of children's multidisciplinary teams, persons or
33 agencies providing treatment or supervision of the minor.

34 (K) A judge, commissioner, or other hearing officer assigned
35 to a family law case with issues concerning custody or visitation,
36 or both, involving the minor, and the following persons, if actively
37 participating in the family law case: a family court mediator
38 assigned to a case involving the minor pursuant to Article 1
39 (commencing with Section 3160) of Chapter 11 of Part 2 of
40 Division 8 of the Family Code, a court-appointed evaluator or a

1 person conducting a court-connected child custody evaluation,
2 investigation, or assessment pursuant to Section 3118 of the
3 Family Code, and counsel appointed for the minor in the family
4 law case pursuant to Section 3150 of the Family Code. Prior to
5 allowing counsel appointed for the minor in the family law case to
6 inspect the file, the court clerk may require counsel to provide a
7 certified copy of the court order appointing him or her as the
8 minor's counsel.

9 (L) Juvenile justice commissions as established under Section
10 225. The confidentiality provisions of Section 10850 shall apply
11 to a juvenile justice commission and its members.

12 (M) Any other person who may be designated by court order
13 of the judge of the juvenile court upon filing a petition.

14 (2) (A) Notwithstanding any other law and subject to
15 subparagraph (A) of paragraph (3), juvenile case files, except
16 those relating to matters within the jurisdiction of the court
17 pursuant to Section 601 or 602, ~~which~~ *that* pertain to a deceased
18 child who was within the jurisdiction of the juvenile court pursuant
19 to Section 300, shall be released to the public pursuant to an order
20 by the juvenile court after a petition has been filed and interested
21 parties have been afforded an opportunity to file an objection. Any
22 information relating to another child or ~~which~~ *that* could identify
23 another child, except for information about the deceased, shall be
24 redacted from the juvenile case file prior to release, unless a
25 specific order is made by the juvenile court to the contrary. Except
26 as provided in this paragraph, the presiding judge of the juvenile
27 court may issue an order prohibiting or limiting access to the
28 juvenile case file, or any portion thereof, of a deceased child only
29 upon a showing that release of the juvenile case file or any portion
30 thereof is detrimental to the safety, protection, or physical, or
31 emotional well-being of another child who is directly or indirectly
32 connected to the juvenile case that is the subject of the petition.

33 (B) *Notwithstanding subparagraph (A), after the death of a*
34 *foster child who is a minor, any member of the public may inquire*
35 *and shall receive information regarding the child's name, date of*
36 *birth, and cause of death, without having to obtain a court order.*
37 *Notwithstanding any other law, this information shall be a public*
38 *record and shall not be confidential.*

1 (3) Access to juvenile case files pertaining to matters within the
2 jurisdiction of the juvenile court pursuant to Section 300 shall be
3 limited as follows:

4 (A) If a juvenile case file, or any portion thereof, is privileged
5 or confidential pursuant to any other state law or federal law or
6 regulation, the requirements of that state law or federal law or
7 regulation prohibiting or limiting release of the juvenile case file
8 or any portions thereof shall prevail. Unless a person is listed in
9 subparagraphs (A) to (L), inclusive, of paragraph (1) and is
10 entitled to access under the other state law or federal law or
11 regulation without a court order, all those seeking access, pursuant
12 to other authorization, to portions of, or information relating to the
13 contents of, juvenile case files protected under another state law
14 or federal law or regulation, shall petition the juvenile court. The
15 juvenile court may only release the portion of, or information
16 relating to the contents of, juvenile case files protected by another
17 state law or federal law or regulation if disclosure is not
18 detrimental to the safety, protection, or physical or emotional
19 well-being of a child who is directly or indirectly connected to the
20 juvenile case that is the subject of the petition. This paragraph shall
21 not be construed to limit the ability of the juvenile court to carry
22 out its duties in conducting juvenile court proceedings.

23 (B) Prior to the release of the juvenile case file or any portion
24 thereof, the court shall afford due process, including a notice of
25 and an opportunity to file an objection to the release of the record
26 or report to all interested parties.

27 (4) A juvenile case file, any portion thereof, and information
28 relating to the content of the juvenile case file, shall not be
29 disseminated by the receiving agencies to any persons or agencies,
30 other than those persons or agencies authorized to receive
31 documents pursuant to this section. Further, a juvenile case file,
32 any portion thereof, and information relating to the content of the
33 juvenile case file, shall not be made as an attachment to any other
34 documents without the prior approval of the presiding judge of the
35 juvenile court, unless it is used in connection with and in the course
36 of a criminal investigation or a proceeding brought to declare a
37 person a dependent child or ward of the juvenile court.

38 (b) (1) While the Legislature reaffirms its belief that juvenile
39 court records, in general, should be confidential, it is the intent of
40 the Legislature in enacting this subdivision to provide for a limited

1 exception to juvenile court record confidentiality to promote more
2 effective communication among juvenile courts, family courts,
3 law enforcement agencies, and schools to ensure the rehabilitation
4 of juvenile criminal offenders as well as to lessen the potential for
5 drug use, violence, other forms of delinquency, and child abuse.

6 (2) (A) Notwithstanding subdivision (a), written notice that a
7 minor enrolled in a public school, kindergarten to grade 12,
8 inclusive, has been found by a court of competent jurisdiction to
9 have committed any felony or any misdemeanor involving curfew,
10 gambling, alcohol, drugs, tobacco products, carrying of weapons,
11 a sex offense listed in Section 290 of the Penal Code, assault or
12 battery, larceny, vandalism, or graffiti shall be provided by the
13 court, within seven days, to the superintendent of the school
14 district of attendance. Written notice shall include only the offense
15 found to have been committed by the minor and the disposition of
16 the minor's case. This notice shall be expeditiously transmitted by
17 the district superintendent to the principal at the school of
18 attendance. The principal shall expeditiously disseminate the
19 information to those counselors directly supervising or reporting
20 on the behavior or progress of the minor. In addition, the principal
21 shall disseminate the information to any teacher or administrator
22 directly supervising or reporting on the behavior or progress of the
23 minor whom the principal believes needs the information to work
24 with the pupil in an appropriate fashion, to avoid being needlessly
25 vulnerable or to protect other persons from needless vulnerability.

26 ~~Any~~

27 (B) ~~Any~~ information received by a teacher, counselor, or
28 administrator under this ~~subdivision~~ *paragraph* shall be received
29 in confidence for the limited purpose of rehabilitating the minor
30 and protecting students and staff, and shall not be further
31 disseminated by the teacher, counselor, or administrator, except
32 insofar as communication with the juvenile, his or her parents or
33 guardians, law enforcement personnel, and the juvenile's
34 probation officer is necessary to effectuate the juvenile's
35 rehabilitation or to protect students and staff.

36 ~~An~~

37 (C) ~~An~~ intentional violation of the confidentiality provisions of
38 this paragraph is a misdemeanor punishable by a fine not to exceed
39 five hundred dollars (\$500).

1 (3) If a minor is removed from public school as a result of the
2 court's finding described in ~~subdivision (b)~~ *subparagraph (A) of*
3 *paragraph (2)*, the superintendent shall maintain the information
4 in a confidential file and shall defer transmittal of the information
5 received from the court until the minor is returned to public school.
6 If the minor is returned to a school district other than the one from
7 which the minor came, the parole or probation officer having
8 jurisdiction over the minor shall so notify the superintendent of the
9 last district of attendance, who shall transmit the notice received
10 from the court to the superintendent of the new district of
11 attendance.

12 (c) Each probation report filed with the court concerning a
13 minor whose record is subject to dissemination pursuant to
14 subdivision (b) shall include on the face sheet the school at which
15 the minor is currently enrolled. The county superintendent shall
16 provide the court with a listing of all of the schools within each
17 school district, within the county, along with the name and mailing
18 address of each district superintendent.

19 (d) Each notice sent by the court pursuant to subdivision (b)
20 shall be stamped with the instruction: "Unlawful Dissemination
21 Of This Information Is A Misdemeanor." Any information
22 received from the court shall be kept in a separate confidential file
23 at the school of attendance and shall be transferred to the minor's
24 subsequent schools of attendance and maintained until the minor
25 graduates from high school, is released from juvenile court
26 jurisdiction, or reaches the age of 18, whichever occurs first. After
27 that time the confidential record shall be destroyed. At any time
28 after the date by which a record required to be destroyed by this
29 section should have been destroyed, the minor or his or her parent
30 or guardian shall have the right to make a written request to the
31 principal of the school that the minor's school records be reviewed
32 to ensure that the record has been destroyed. Upon completion of
33 any requested review and no later than 30 days after the request for
34 the review was received, the principal or his or her designee shall
35 respond in writing to the written request and either shall confirm
36 that the record has been destroyed or, if the record has not been
37 destroyed, shall explain why destruction has not yet occurred.

38 ~~Except~~

1 (e) Except as provided in paragraph (2) of subdivision (b), no
2 liability shall attach to any person who transmits or fails to transmit
3 any notice or information required under subdivision (b).

4 ~~(e)~~

5 (f) For purposes of this section, a “juvenile case file” means a
6 petition filed in any juvenile court proceeding, reports of the
7 probation officer, and all other documents filed in that case or
8 made available to the probation officer in making his or her report,
9 or to the judge, referee, or other hearing officer, and thereafter
10 retained by the probation officer, judge, referee, or other hearing
11 officer.

12 SEC. 5. Section 16000.1 is added to the Welfare and
13 Institutions Code, to read:

14 16000.1. (a) The Legislature finds and declares all of the
15 following:

16 (1) The state has a special duty to care for and protect the
17 children that the state places into foster care.

18 (2) A judicial order establishing jurisdiction over a child
19 placed into foster care supplants or limits parental or previous
20 adult authority.

21 (3) Accordingly, the state assumes an obligation of the highest
22 order to ensure the safety of children in foster care.

23 (b) It is the intent of the Legislature to do both of the following:

24 (1) Abrogate the holding in *County of Los Angeles v. Superior*
25 *Court of Los Angeles: Real Party in Interest Terrell R. (2002) 102*
26 *Cal.App.4th 627*, to the extent that decision affected liability or
27 immunity for injuries to children in protective custody, and to
28 reinstate the judicial interpretation of liability and immunity as it
29 existed prior to that decision.

30 (2) Confirm the state’s duty to comply with all requirements
31 under Part B of Title IV of the Social Security Act (42 U.S.C. Sec.
32 620 et seq.) and Part E of Title IV of the Social Security Act (42
33 U.S.C. Sec. 670 et seq.) that are relevant to the protection and
34 welfare of children in foster care.